

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:      Kata Rowland      )  
              Dist. 6, Map 41, Control Map 41, Parcel 55.00,      ) Claiborne County  
              S.I. 000      )  
              Residential Property      )  
              Tax Year 2007      )

### INITIAL DECISION AND ORDER

### Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$88,300	\$41,800	\$130,100	\$32,525

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 25, 2008 in Tazewell, Tennessee. In attendance at the hearing was Claiborne County Property Assessor's representative Judy Myers.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a small farm located at 133 Kata Lane in Claiborne County, Tennessee.

On February 25, 2008, the administrative judge issued a notice of hearing scheduling this matter for a jurisdictional and value hearing. As will be discussed below, the jurisdictional issue arises from the fact the disputed appraisal was not appealed to the Claiborne County Board of Equalization.

On March 14, 2008, the parties filed a stipulation indicating they agreed to the following equalized fair market value:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$63,100	\$44,100	\$107,200	\$26,800

Thus, the only issue before the administrative judge concerns jurisdiction.

The taxpayer's representative, Patricia Bacon, did not appear at the hearing on March 25, 2008. Instead, Ms. Myers introduced into evidence as exhibit #1 a communication from Ms. Bacon which provided in pertinent part as follows:

I am a resident of Frankfort, Kentucky, but am administrator of the estate of my mother, Kata Lee Cottrell Rowland, a life-long resident of Claiborne County. She passed away of cancer in September 2005.

In spring of 2007 my husband, Richard Randolph Bacon, was nearing the end of his two year battle with cancer. In March and April we were traveling weekly to Nashville's Sarah Cannon



Cancer Research Center where he was receiving his third round of chemotherapy as part of clinical trials at that facility. It was a very stressful and intense time for us as he became progressively weaker and required more care. I was simply unable to travel to Tazewell. I attempted to telephone the assessor's office several times, but, as probably many people were doing the same, kept receiving a busy signal and was not successful in making contact by phone. In early May, after a hospitalization in Frankfort, my husband was brought home under Hospice care. He died on May 25, 2007.

In summer of 2007 I came to the assessor's office in Tazewell to file a new survey of my mother's property. I learned at that time that, while it was not possible to file an appeal in the county as the deadline had passed, I would be able to do so through the Nashville Office, which I did.

\* \* \*

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

*Associated Pipeline Contractors, Inc.*, Williamson County, Tax Year 1992, Assessment Appeals Commission (Aug. 11, 1994). *See also John Orovets*, Cheatham County, Tax Year 1991, Assessment Appeals Commission (Dec. 3, 1993). Thus, for the State Board of Equalization to have jurisdiction in this appeal, Ms. Bacon must show that circumstances beyond her control prevented her from appealing to the Claiborne County Board of Equalization.

The administrative judge finds that the above-quoted statement from Ms. Bacon established that she did not appeal the disputed appraisal to the Claiborne County Board of



Equalization due to circumstances beyond her control. Accordingly, the administrative judge finds the State Board of Equalization has jurisdiction to adopt the previously summarized stipulated values.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$63,100	\$44,100	\$107,200	\$26,800

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

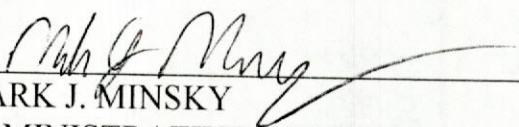
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.



ENTERED this 1st day of April, 2008.

  
MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Patricia Bacon  
Kay Sandifer, Assessor of Property